

REMARKS

Reconsideration of the application and allowance of the pending claims are respectfully requested based upon the remarks below. By this Amendment, claims 1, 5, 7, 11, 12, 16-18, 27, and 33 are amended, and claims 3-4, 6, 8-10, 15, 19-26, and 32 are canceled. Accordingly, claims 1, 2, 5, 7, 11-14, 16-18, 27-31 and 33 are pending in this application.

The Patent and Trademark Office (PTO) objects to claim 19 because of informalities. As indicated above, claim 19 is cancelled. Accordingly, withdrawal of the objection to claim 19 is respectfully requested.

The PTO further rejects claims 6, 7, 16, 17, 19, 20, 32, and 33 under 35 U.S.C. §112, second paragraph, asserting that the claims are indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. The cancellation of claims 6, 19, and 20 renders the rejection of these cancelled claims moot. The remaining claims are amended to obviate the rejections thereto, to more clearly recite the claimed subject matter, and to place the application in better compliance with commonly accepted US patent practice.

More specifically, claims 16 and 17 are amended to depend from claim 12, thereby providing antecedent basis for the recited "said encoding device."

In addition, claims 32 and 33 are amended to obviate antecedent basis rejections based upon the recited "said lost packet," "said loss," and said "wireless terminal."

Claims 1, 3, 8, 9-11, 27, and 29 stand rejected under 35 U.S.C. §102(e) as being anticipated by *Mizutani et al.* (US 20020138846). In addition, claims 2, 4, 5, 28, 30, and 31 stand rejected under 35 U.S.C. §103(a) over *Mizutani* in view of *Cheung et al.* (US 5,812,531). The Examiner further rejects claims 6, 7, 32, and 33 as obvious under rejected under 35 U.S.C. §103(a) over *Mizutani* nor *Cheung* as applied to claim 4, and further in view of *Curet et al.* (US 6,823,010). These rejections are respectfully traversed.

Regarding claim 6, the Examiner admits that neither *Mizutani* nor *Cheung* teaches "switching means for, in response to determination of the packet loss, for the

destination for which the loss has occurred, selecting a media stream in which a first I-picture after the picture in the lost packet appears earliest among the plurality of media streams, and switching the media stream to be sent to the selected media stream,” (see Office Action, page 11). The Examiner relies upon *Curet* to remedy the deficiencies of *Mizutani* and *Cheung*. Applicants respectfully disagree.

At the outset, Applicants amend claim 1 to recite the subject matter of claim 6 and portions of intervening claims 2 and 4. A rejection based on 35 U.S.C. §102 requires every element of the claim to be included in the reference, either directly or inherently. Applicants respectfully submit that *Mizutani* singularly, or in combination with *Cheung*, fails to disclose at least the above features added to claim 1. Withdrawal of the 102 rejection of claim 1 is respectfully requested.

Notwithstanding the assertions of the Examiner, Applicants submit that *Curet* fails to disclose the claimed subject matter of amended claim 1, as recited below:

switching means that in response to a determination of said packet loss with respect to the destination for which said loss has occurred, selects a media stream from a plurality of said media streams of at least said first and second formats, the selected media stream being a media stream in which an I-picture appears earliest after the lost packet, and for sending the selected media stream to said destination. (Emphasis added)

Specifically, *Curet* only discloses, at column 1, lines 48-60, and column 2, lines 40-50, “switching from a first program selected from a given number of a first multiplex’ programs to a second program selected from a given number of a second multiplex’ programs.” Nowhere does *Curet* disclose, teach, or suggest at least the subject matter underlined above, and recited in amended independent claim 1. Indeed, nowhere does *Curet* disclose, teach, or suggest packet loss, let alone selected a specific media stream and retransmitting that media stream based upon feedback regarding that lost packet.

Therefore, Applicants respectfully submit that any allowable combination of asserted references would similarly fail to disclose, teach, or suggest all recited claim features of amended claim 1.

Independent claims 11 and 27 are amended to include features similar to that recited in amended claim 1. Accordingly claims 11 and 27 are likewise allowable over the asserted combination of references.

Regarding the rejections of claims 12-24, 26, 28-33 under *Mizutani* in view of one or more of *Curet*, *Cheung*, *Itoh et al.* (US 20020191594), *Shimoyama et al.* (US 6643496), and *Lee et al.* (US 7,224,702), Applicants respectfully submit that based upon the cancelled claims, and the arguments presented above regarding independent claims 1, 11, and 27, dependent claims 12-18 and 28-33 are likewise patentable over the asserted combination of references for at least their dependence on claims 1, 11, and 27, as well as for the additional features they recite. Accordingly, withdrawal of the rejections over the asserted combination of references is respectfully requested.

All objections and rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited.

Early issuance of a Notice of Allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicants' attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to such deposit account.

Respectfully submitted,

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A handwritten signature in cursive script that reads "Kenneth M. Berner".

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